

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 7, 2003

8:10 a.m.

MEMBERS PRESENT

Representative Lesil McGuire, Chair
Representative Tom Anderson, Vice Chair
Representative John Coghill
Representative Jim Holm
Representative Ralph Samuels
Representative Les Gara
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARING

Violent Crimes Compensation Board

Leroy J. Barker - Anchorage

- CONFIRMATION ADVANCED

HOUSE BILL NO. 64

"An Act relating to court approval of the purchase of structured settlements."

- MOVED CSHB 64(JUD) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: HB 64

SHORT TITLE: PURCHASE OF STRUCTURED SETTLEMENTS

SPONSOR(S): REPRESENTATIVE(S) FOSTER

Jrn-Date	Jrn-Page		Action
01/27/03	0075	(H)	READ THE FIRST TIME - REFERRALS
01/27/03	0075	(H)	STA, JUD
02/11/03		(H)	STA AT 8:00 AM CAPITOL 102
02/11/03		(H)	Heard & Held

			MINUTE(STA)
02/20/03		(H)	STA AT 8:00 AM CAPITOL 102
02/20/03		(H)	Moved CSHB 64(STA) Out of Committee
			MINUTE(STA)
02/24/03	0283	(H)	STA RPT CS(STA) 5DP 1NR 1AM
02/24/03	0283	(H)	DP: GRUENBERG, HOLM, LYNN, DAHLSTROM,
02/24/03	0283	(H)	WEYHRAUCH; NR: BERKOWITZ; AM: SEATON
02/24/03	0283	(H)	FN1: ZERO(CED)
02/24/03	0283	(H)	REFERRED TO JUDICIARY
03/03/03		(H)	JUD AT 1:00 PM CAPITOL 120
03/03/03		(H)	-- Meeting Canceled --
03/05/03		(H)	JUD AT 1:00 PM CAPITOL 120
03/05/03		(H)	Heard & Held -- Recessed to 03/07/03 8:00 am --
			MINUTE(JUD)
03/07/03		(H)	JUD AT 8:00 AM CAPITOL 120

WITNESS REGISTER

LEROY J. BARKER, Appointee
to the Violent Crimes Compensation Board (VCCB)
Anchorage, Alaska
POSITION STATEMENT: Testified as appointee to the Violent
Crimes Compensation Board.

PAUL LaBOLLE, Staff
to Representative Richard Foster
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented HB 64 on behalf of the sponsor,
Representative Foster.

AL TAMAGNI, SR., Member
National Structured Settlements Trade Association (NSSTA)
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 64 and responded
to questions.

RANDY DYER, Executive Vice President
National Structured Settlements Trade Association (NSSTA)
Washington, D.C.
POSITION STATEMENT: Assisted with the presentation of HB 64.

JOHN L. GEORGE, Lobbyist

for American Council of Life Insurers (ACLI)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 64.

PAUL GROSSI, Director
Central Office
Division of Workers' Compensation
Department of Labor & Workforce Development
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of
HB 64.

ACTION NARRATIVE

TAPE 03-17, SIDE A

Number 0001

CHAIR LESIL MCGUIRE called the House Judiciary Standing Committee meeting, which had been recessed on 3/5/03, back to order at 8:10 a.m. Representatives McGuire, Anderson, Holm, Coghill, Samuels, and Gruenberg were present at the call to order. Representative Gara arrived as the meeting was in progress.

CONFIRMATION HEARING

Violent Crimes Compensation Board

Number 0054

CHAIR MCGUIRE announced that the committee would first consider the appointment of Leroy J. Barker to the Violent Crimes Compensation Board.

Number 0082

LEROY J. BARKER, Appointee, Violent Crimes Compensation Board (VCCB), relayed that he'd agreed to serve on the VCCB after being asked by staff to James Clark, Chief of Staff for Governor Murkowski. Referring to his resume, he noted that he has had criminal law experience, which he feels to be an important part of the criminal justice system. He said that he is looking forward to working on the VCCB.

REPRESENTATIVE GRUENBERG said he is glad that a person of Mr. Barker's caliber has been nominated and is willing to volunteer.

Number 0179

REPRESENTATIVE GRUENBERG made a motion to advance from committee the nomination of Leroy J. Barker as appointee to the Violent Crimes Compensation Board. There being no objection, the confirmation was advanced from the House Judiciary Standing Committee.

HB 64 - PURCHASE OF STRUCTURED SETTLEMENTS

Number 0203

CHAIR McGUIRE announced that the final order of business would be HOUSE BILL NO. 64, "An Act relating to court approval of the purchase of structured settlements." [Before the committee was CSHB 64(STA).]

Number 0227

PAUL LaBOLLE, Staff to Representative Richard Foster, Alaska State Legislature, said on behalf of the sponsor, Representative Foster, that HB 64 was introduced for two reasons. The first being that it had been brought to the sponsor's attention by some of the state's trial lawyers that recipients of structured settlements, out in Savoonga and Gamble, for example, have had their structured settlements purchased by less than well-meaning factoring companies for a fraction of their value - deeply discounted, for example, at 20 cents on the dollar. Noting that the purpose of a structured settlement is to provide a recipient with a continuous flow of cash so that he/she does not become a burden on the state, he relayed that the recipients who sold their structured settlements got their small lump sum of cash, spent it all up, and are now back on welfare.

MR. LaBOLLE said that the second reason for introducing HB 64 relates to "the federal law pertaining to it," and noted that a copy of that law is included in members' packets. He offered that that federal law simply says that a tax of 40 percent of the factoring discount is imposed on anyone who acquires structured settlement payment rights in a structured settlement factoring transaction. He explained that the only way that this tax can be waived is if the transaction is approved in an applicable state court in a qualified order, and noted that HB 64 would act as that qualified order.

CHAIR McGUIRE mentioned that members' packets include a handout listing the structured settlement protection statutes of other

states. She asked whether HB 64 is patterned after any particular state's statute.

MR. LaBOLLE said, "In a way, yes, but not particularly; the National Structured [Settlements] Trade Association (NSSTA) has a model, ... which many of the other states have used - ... each going with it to a certain degree and others ... differing from it in other places." In response to the question of how CSHB 64(STA) differs from the original bill, he referred to page 3, line 20, of CSHB 64(STA), and indicated that the language, "or where the payee is domiciled" has been added after the word "maintained". He explained that this change was requested by the "state courts," and confirmed that this language now conforms to language found on page 1, lines 11-12.

CHAIR McGUIRE, in response to questions, relayed that there are three zero fiscal notes for CSHB 64(STA).

Number 0660

AL TAMAGNI, SR., Member, National Structured Settlements Trade Association (NSSTA), said that the NSSTA strongly supports HB 64 and thinks it is a good, consumer protection measure that will benefit a significant number of people in Alaska who are being preyed upon by out of state vendors that purchase structured settlements at a substantial discount in the secondary market. He observed that as more states pass laws similar to HB 64, the focus of companies that purchase structured settlements shifts to those states which have yet to enact such laws. He encouraged the committee to pass HB 64.

Number 0657

RANDY DYER, Executive Vice President, National Structured Settlements Trade Association (NSSTA), relayed that the NSSTA has been following this issue for the past five years and has been working towards developing coalitions to support this [type of] legislation, adding that these coalitions include trial lawyers, defense lawyers, the insurance industry, and "disability groups." He went on to say:

The purpose of the federal bill is to establish a hammer on the practices of the factoring companies: it's a 40 percent excise tax on the transaction. And it's a tax that cannot be passed on to the victim of the factoring transaction because it is a tax on the difference between the amount of money paid to the

victim and the total undiscounted payments that are taken from the victim. So, if you try to give the victim less to accommodate the tax, you'd simply increase your tax. So that tax is intended to put the brakes on these transactions. The second part of the federal bill allows an escape from the tax, and the escape from the tax is ... if you go to court and get a court order that meets certain minimum requirements. The bill that's before you meets those minimum requirements. The third part of the [federal] bill protects everyone's tax-favored circumstances in a structured settlement; as you know, people who receive structured settlements receive them tax free in recognition of their physical injuries.

The bill before you does a few things. First of all, it requires court oversight. We've looked at many options and we just believe that the court is the proper venue to oversee these transactions. There's a requirement that the transaction be determined to be in the best interest of the payee. The court must also find that the transaction doesn't contravene other applicable laws. As you know, for example, workers' compensation payments may not be sold or encumbered; there are laws restricting the sale of workers' compensation payments in all 50 states - Alabama criminalizes anyone who would try to buy someone's workers' [compensation] payments. So, there's a requirement that those kinds of state restrictions be looked at by the court.

Number 0842

MR. DYER also said:

As you know, ... the requirement is that they go to a local court, to make this as easy as possible. We have now several years' experience with this process, and we haven't found it to be burdensome in any way. What little cost there is to the consumer is more than made up by the savings in what they receive by having the court oversight. The factoring companies are required to disclose the terms of their transaction; they're required to make a present value calculation using an applicable federal rate published by the Internal Revenue Service [IRS] so people have some idea of what their payments are worth. [Payees are]

... asked to seek professional advice; we feel very strongly about that. And, most importantly, the bill before you doesn't authorize these transactions, [it] simple creates a mechanism whereby people who need to engage in a factoring transaction may do so.

REPRESENTATIVE GRUENBERG referred to a document he received from the Association of Trial Lawyers of America (ATLA) that includes and compares the model Act created by the National Conference of Insurance Legislators (NCOIL) - the Model Structured Settlement Transfers Protection Act - and the model Act created by the National Structured Settlements Trade Association (NSSTA) and the National Association of Settlement Purchasers (NASP) - the Model State Structured Settlement Protection Act. He noted that HB 64 appears to be modeled on the NCOIL model Act.

MR. DYER said that there are several versions of the NCOIL model Act and he does not know which one is included in the aforementioned document, adding that he, himself, wrote the comparison in that document.

REPRESENTATIVE GRUENBERG asked, "Assume for the purposes of discussion that we have the NCOIL version, is there anything in the other version [the NSSTA/NASP version] that is important or that you would recommend that we consider?" For example, he added, he'd noticed that there is a provision "that would give jurisdiction in this state, also, if the company that's purchasing the structured settlements is domiciled in Alaska; ... it would increase the ... long-arm jurisdiction of this Act."

Number 1117

MR. DYER replied:

Again, understand that much of this is driven by the federal Act. And the way the federal Act, which was enacted ... a year ago January, was written, it took into consideration states that have not yet passed their own state model Act, and it created jurisdictional issues such that if Alaska, for example, were not to pass this Act, ... then Alaskans could still engage in factoring transactions, but you'd have to find some other state that does have the law and you'd have to find a nexus there. For example, if the factoring company were located in a state that had the law, you could use the laws of that

state. Similarly, [if] the annuity provider's state has such a law, you could use that state. Our purpose is to have Alaskan's be governed by Alaska law and not the laws of Connecticut, for example; so the bill before you would do that.

REPRESENTATIVE GRUENBERG asked Mr. Dyer to continue with his comparison of the two versions.

The committee took an at-ease from 8:29 a.m. to 8:32 a.m. for the purpose of copying and distributing the aforementioned document.

MR. DYER continued:

I think the NSSTA/NASP model Act is the latest version; that is to say, [there] were several iterations of model Acts over years. That's the most recent one, and it is intended to be a simpler, more streamlined version. There are some complexities in the NCOIL model Act, for example, in the disclosure area. ... I believe you'd find it ... at the top of page 7, where the disclosure ... begins, "the quotient, expressed as a percentage, obtained by dividing the net" ... We're not sure, now that we've had some experience, that that sort of complex iteration adds much to the disclosures that are contained in the model Act that's on the left [the NSSTA/NASP version]. There are things like that, where the NCOIL model Act offers certain complexities that have been simplified in the later model Act. But, having said that, let me say the NCOIL model Act will work; if that's the one you have before you, it will work, it will do the job.

Number 1320

REPRESENTATIVE GRUENBERG asked Mr. Dyer whether he would recommend inserting any of the language from the newer version into [HB 64]. He remarked that during the break, Mr. LaBolle had mentioned that [HB 64] contains a requirement that the [payee] have an expert advisor, adding that he, personally, thinks this requirement is very important but may not be in the "later Act."

MR. DYER replied:

I would agree with you that that iteration is stronger. I would also say that it was our concern that we didn't want to unduly burden Alaskans with having to pay other people, and the requirement in one version of the model said that you had to speak to certain professionals - a CPA [certified public accountant] and so forth. We feel that if people, particularly people who've suffered a physical injury, can go back to their original attorney and get advice on this transaction, that's all that required.

REPRESENTATIVE GRUENBERG asked whether the language Mr. Dyer referred to, which begins, "the quotient, expressed as a percentage ..." was included in HB 64.

MR. LaBOLLE referred to page 2 of the bill, and indicated that [subparagraph (G), beginning on line 18] contains similar though not identical language.

MR. DYER reiterated that this language involves some fairly complex maneuvers; that over the years, the NSSTA has come to believe that the simpler version of the disclosure, as contained in the NSSTA/NASP version, is sufficient; and that the language in HB 64 will work. The language in the NSSTA/NASP version, he remarked, was merely changed in an attempt to make it simpler and easier to understand.

CHAIR McGUIRE, turning to the requirement that a payee receive independent professional advice, noted that HB 64 stipulates that the person providing this service is not, in any manner, affiliated with or compensated by the transferee.

MR. DYER mentioned that there has been the problem of factoring companies going to their victims and providing them with the name of a lawyer who is paid by the factoring companies to give the victims the advice the factoring companies want them to receive. He acknowledged that the language in HB 64 pertaining to this issue is much stronger [than in the NSSTA/NASP version].

Number 1520

MR. DYER, with the goal of continuing on with his comparison, turned to page 5 of the comparison document, specifically the portion that contains a comparison between Section 4 of the NSSTA/NASP version and Section 3 of the NCOIL version.

CHAIR McGUIRE, to clarify, noted that corresponding language can be found on page 1, Section 1, of HB 64.

MR. DYER said:

The first provision that the court has to find is, in [the NCOIL version] ..., that, "the transfer complies with the requirements of Sections 3-6 and will not contravene other applicable law". In the [NSSTA/NASP version] ..., it says, "the transfer does not contravene any applicable statute or [the] order of [any] court or other [government] authority". We believe that the language in the [NSSTA/NASP version] ... was clearer, but, again, I'm going to tell you that I think the language you have will work.

REPRESENTATIVE GRUENBERG asked whether it would be important to include in HB 64 the language "or the order of any court".

MR. DYER replied:

Well, you could argue that the phrase, "other applicable law" would apply to all kinds of applicable law including court orders including contract law, and that the language ... [in the NSSTA/NASP version] specifies three kinds of law. And so, the language ... [in the NSSTA/NASP version], while more specific, is also more narrow. So, that's ... a tradeoff.

REPRESENTATIVE GRUENBERG said he would like to ensure that no one can use the argument that a court order isn't a law; thus he is pondering whether it would be advisable to add, "or the order of any court".

MR. DYER surmised that such language would be a useful addition.

MR. LaBOLLE asked whether such language would include court orders from other states, or just Alaskan and federal court orders.

REPRESENTATIVE GRUENBERG offered his interpretation that it would include any court order unless specified otherwise. He added, "Normally, if it's a final order of another court, it would be entitled to full faith and credit."

Number 1719

CHAIR McGUIRE asked whether including court orders from other states would lessen the [payee's] protections.

MR. DYER responded:

What if, for example, ... the case before the Alaska court involved an injury to a minor who was injured and whose case was settled in Ohio and subsequently moved to Alaska. Should the orders of the original court in that case be respected in the Alaska court in making the determination? I would think that you want that, ... if you're dealing with a minor, particularly.

REPRESENTATIVE GRUENBERG offered his understanding that such an order would be entitled to full faith and credit under the constitution, in any event; thus they would be bound to follow any such final order.

MR. DYER noted, however, that by including it in statute, the judges will be alerted to specifically look for "such things." He added that the factoring companies are not always upfront about such orders.

REPRESENTATIVE GRUENBERG next turned to the language, "or other [government] authority", which is included in the NSSTA/NASP version. He opined that such language "sounds awfully vague."

MR. DYER said that the intent behind including that language was to encompass entities such as the Workers' Compensation Board, for example. He opined that the orders of a workers' compensation board should be respected, adding that cases that never come before a judge may simply have come before a workers' compensation board.

REPRESENTATIVE GRUENBERG said he would have to check to see whether such language is the type of language that the Legislative Affairs' Legal and Research Services Division would ordinarily use. He sought confirmation that Mr. Dyer is referring to the order of an administrative agency - an administrative order.

Number 1871

MR. DYER answered in the affirmative. He then turned to page 11 of the comparison document, and noted that there is language in the NCOIL version - Section 5 - that is not included in the

NSSTA/NASP version. He explained that this language is intended to protect parties who may not be directly involved in the transfer but who may be peripherally affected by it, for example, the annuity provider. He added, "You can see that there are protections against the annuity provider being dragged back into the middle of a disagreement between the person that uses the services of the factoring company and the factoring company." He said that this concept stems from a case in Florida in which an individual sold his/her payments, and after realizing that it was a bad deal, went back into court and sued the annuity provider who was not even aware that the payments had been sold; in that case, the court ordered the annuity provider to make duplicate payments to the individual that had sold the payments, and to seek redress from the factoring company. This language in Section 5 is intended to prevent such from happening again.

REPRESENTATIVE GRUENBERG noted that in HB 64, language to that effect can be found on page 4, lines 11-14. He then referred to page 12 of the comparison, and noted that in the NSSTA/NASP version, its provisions may not be waived by a payee; that in the NCOIL version, only Sections 2-4 may not be waived, by anyone; and that in HB 64, none of its provisions may be waived by anyone.

MR. DYER acknowledged that the language in HB 64 regarding waivers provides the broader protection.

CHAIR MCGUIRE asked Mr. Dyer whether he has any further suggestions [for changes to HB 64].

MR. DYER said no, adding that he hopes the legislation gets enacted.

Number 2082

JOHN L. GEORGE, Lobbyist for American Council of Life Insurers (ACLI), said simply, "We are the companies that provide the annuities that fund structured settlements, and we wholeheartedly support this protection of consumers."

Number 2110

PAUL GROSSI, Director, Central Office, Division of Workers' Compensation, Department of Labor & Workforce Development, in response to a question, noted that HB 64 only applies to workers' compensation in a limited way because, under AS

23.31.060, most workers' compensation benefits are not assignable. He added, however, that when [claims] are settled, and settled with an annuity, then HB 64 would apply. In response to another question, he relayed that such cases are not common, adding that most of the time claims are settled with payment of a lump sum.

REPRESENTATIVE GRUENBERG, referring to page 1, line 14, asked Mr. Grossi whether adding the words ", the orders of any court or administrative agency," after "09.68,230" would cover workers' compensation orders.

MR. GROSSI said he believes it would.

MR. TAMAGNI offered his opinion that the best place for the making of all decisions regarding any assignments is at the superior court level, and that it would be best "to eliminate the administrative agencies" due to their lack of expertise in understanding these transactions.

MR. DYER agreed that the superior court, certainly, would be more familiar with the terms of the structured settlement. He pointed out, however, that the discussion they are having regarding the contravention language is whether to use the general term of "other applicable law" or the more specific terminology of "applicable state laws, orders of any court or administrative agency". He opined that although the determination itself would be made by the court, there should be some inclusion of language which would ensure that the orders of a workers' compensation authority are complied with.

REPRESENTATIVE COGHILL suggested that language on page 3, lines 25-26, would already do that.

REPRESENTATIVE GRUENBERG pointed out, however, that the proposed additional language they are discussing would be inserted on page 1, line 14, in the compliance section of the bill, that is, the section of the bill that stipulates what aspects a factoring transaction must comply with. He noted that the language on page 3, lines 25-26, on the other hand, refers only to who will receive notice of the proposed transaction.

TAPE 03-17, SIDE B

Number 2399

REPRESENTATIVE GRUENBERG asked Mr. Dyer whether he, when discussing what aspects should be complied with regarding

administrative agencies, had in mind anything other than a workers' compensation authority.

MR. DYER said no, adding that he was mainly concerned that the court be required to recognize the laws concerning workers' compensation payments. He remarked that in the NSSTA/NASP version, this was accomplished by including reference to that type of authority in both the non-contravention language and the notification language.

REPRESENTATIVE GRUENBERG surmised, then, that Mr. Dyer's concern is already addressed, since the laws - both statutes and regulations - concerning workers' compensation payments would be included in the term "other applicable state and federal law", which is located on page 1, line 14.

MR. DYER agreed. In response to a question, he indicated that including a reference to court orders - on page 1, line 14 - would be a good addition.

MR. TAMAGNI, in response to a question, indicated that such a change would be acceptable to him. He added that he merely wants to be sure that all factoring transactions will be referred to superior court.

REPRESENTATIVE GRUENBERG assured Mr. Tamagni that language on page 1 [lines 8-9] stipulates just that.

REPRESENTATIVE COGHILL asked whether the "timelines" in HB 64 are sufficient.

MR. TAMAGNI said he believed that they are.

MR. DYER remarked that the timelines are sufficient in other states, but acknowledged that perhaps this might not be true in Alaska given its "size and breadth."

REPRESENTATIVE COGHILL opined that many of the cases that HB 64 is designed to address will occur in rural Alaska.

CHAIR McGUIRE, to clarify, indicated that the timelines Representative Coghill is referring to can be found on [page 1, line 15, which has a 10-day requirement]; page 3, line 23, which has a 20-day requirement; and page 4, line 7, which has a 15-day requirement.

Number 2109

MR. DYER explained that the purpose of creating the aforementioned timelines was to allow everyone sufficient time to get notice and take appropriate action, ensuring that everybody's rights are cared for, noting that in some cases, this could include the dependents of the victim of the factoring transaction. On the other hand, he remarked, one of the reasons a person may look to a factoring transaction might involve a pressing need to receive money at an early time; for example, to pay medical expenses. He surmised that it would be acceptable to extend the current timelines.

REPRESENTATIVE COGHILL, referring to the 10-day requirement on Page 1, line 15, noted that this pertains to when a transferee will provide the disclosure statement to the payee. He asked if proof must be shown regarding when that disclosure statement was provided.

MR. DYER said yes, the factoring company must prove, in court, that the appropriate information has been provided more than ten days before the effective date of the contract. This timeline ensures that a payee is given enough time to fully consider all the details of the pending transaction.

REPRESENTATIVE GRUENBERG noted that according to Alaska law, "service is complete when it is mailed, not when it is received." He surmised that the term "provided" would be read the same way, as the date when something was mailed. Given the size of Alaska, he remarked, he would feel more comfortable if the bill specifically stipulated that the date in question is the date on which the "payee has received" the disclosure statement.

MR. LaBOLLE agreed. In closing, he noted that the NCOIL version is the stronger version because the NSSTA/NASP version was developed as part of a compromise between the NSSTA and the settlement purchasers.

Number 1923

REPRESENTATIVE GRUENBERG made a motion to adopt Conceptual Amendment 1: on page 1, line 14, after "09.68.230" add ", the orders of any court,". There being no objection, Conceptual Amendment 1 was adopted.

Number 1881

REPRESENTATIVES GRUENBERG and COGHILL made a motion to adopt Conceptual Amendment 2: on page 2, line 1, delete "the transferee has provided to," and on page 2, line 2, after "payee" insert "has received by certified mail, return receipt requested or other equally certain proof of service, from the transferee". There being no objection, Conceptual Amendment 2 was adopted.

MR. LaBOLLE, in response to a question, surmised that with the adoption of Conceptual Amendment 2, the 10-day time period stipulated on page 1, line 15, will be sufficient.

Number 1705

CHAIR McGUIRE made a motion to adopt Amendment 3, on page 3, line 23, delete "20" and insert "30". There being no objection, Amendment 3 was adopted.

Number 1701

CHAIR McGUIRE made a motion to adopt Amendment 4, on page 4, line 7, delete "15" and insert "20".

MR. LaBOLLE opined that "increasing the amount of time required for receipt of responses ... would limit the oppositions to the transfer, rather than limiting the transfer itself."

Number 1671

CHAIR McGUIRE withdrew Amendment 4.

REPRESENTATIVE GARA asked whether the issue has been raised regarding ensuring that the process remains simple enough that someone who has very little money can engage in it without an attorney or without a filing fee.

CHAIR McGUIRE said that issue had not yet been addressed.

REPRESENTATIVE GARA said:

I had discussed with ... the sponsor of the bill the possibility of sending a letter of intent along with this bill - that might not come through this meeting because we'd like to pass the bill through, but that the sponsor might attach as this bill makes it through the process - to deal with these problems where the people who deal with these structured settlements tend

to be people who have very little money. And while we hope that people don't sell these structured settlements too often because they tend to be very bad deals when they do, if they do, we don't [want] to add the insult to injury of making somebody hire an attorney to get their \$20,000 or their \$10,000, because that would be expensive. And we hope that maybe there wouldn't be a filing fee to deal with this, and we'd hope that somebody who lives in the bush wouldn't have to buy a plane ticket to come to court to deal with something like this. These are people who have very little money in the first place. So, in concept, I would like to ask the sponsor to consider attaching a letter of intent that would go with the bill.

REPRESENTATIVE GRUENBERG opined that the superior court judges that would be dealing with this proposed law will never see a letter of intent. He said that he supports what Representative Gara is trying to accomplish, and asked him whether he would be willing, via a conceptual amendment, to include such language as an intent section at the beginning of the bill.

REPRESENTATIVE GARA asked whether the sponsor would be amenable to the addition an intent section that would relay:

To the extent possible, no filing fee be charged to people who use this process; that a process be established that people could navigate without an attorney, if possible; and that a process be established that [allows those] who do not live near courts to deal with these things over the telephone.

Number 1510

MR. LaBOLLE said that he would have to see the specific language first before agreeing to it. He asked whether the portion of the intent language regarding not needing to hire an attorney would be contrary to the requirement in the bill that a payee receive professional advice.

REPRESENTATIVE GARA said he did not want to interfere with that requirement. He elaborated: "You could conceivably do all these things without hiring an attorney. In practice, many attorneys, I think, will do this for free for people."

CHAIR McGUIRE posited that the term "independent professional advice", as used on page 2, lines 26-27, could be interpreted to mean the advice of an attorney, a certified public accountant, an actuary, or another licensed professional. She said that she would be uncomfortable adding an intent section that she has not yet seen the exact wording of. She asked Representative Gara to work with the sponsor on this issue, with the view to perhaps have something specific available to offer on the House floor.

MR. DYER remarked that although the heart of the suggested intent language is in the right place, the last thing the committee would want is for there to be no one going before the court but the victim and the factoring company. That's a license for mischief, he opined, adding that although they may be talking about people with very little money, those people will have less money if only the factoring company shows up in court with them. He said that according to the NSSTA's experience, if victims go back to their original attorney, that attorney will do it for nothing because it is a relatively easy thing to do. If victims do have to go to a [different] attorney, he pointed out, the few hundred dollars doing so costs them will more than be made up for by the increase in what they receive from the factoring companies.

REPRESENTATIVE SAMUELS agreed with that point.

Number 1359

REPRESENTATIVE GARA withdrew his suggestion regarding adding an intent section.

REPRESENTATIVE GRUENBERG suggested that perhaps a provision could be added that requires the transferee to pay the filing fee, rather than the payee.

Number 1337

REPRESENTATIVE SAMUELS moved to report CSHB 64(STA), as amended, out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSHB 64(JUD) was reported from the House Judiciary Standing Committee.

REPRESENTATIVE GRUENBERG remarked that he would like to see CSHB 64(JUD) before it goes to the floor.

CHAIR McGUIRE said, "So noted."

ADJOURNMENT

Number 1319

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 9:28 a.m.